

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

DR. REWA KUMAR,

Plaintiff,

No. C 14-04573 WHA

v.

DOE 1, an unknown individual, and DOES
1 through 10,

Defendants.

**ORDER DENYING MOTION FOR A
TEMPORARY RESTRAINING
ORDER AND CONTINUING CASE
MANAGEMENT CONFERENCE**

In this action involving alleged defamation and copyright infringement, plaintiff moves for a temporary restraining order against unknown “Doe” defendants. For the reasons stated herein and at the October 30 hearing, the motion is **DENIED**.

* * *

Plaintiff Dr. Rewa Kumar is a “specialist in Vastu Shastra,” an Indian “doctrine of architecture and design of Vedic origin” (Kumar Decl. ¶ 2). She allegedly possesses copyrights to certain videos and a photograph of herself used for “promoting and marketing” her Vastu Shastra business (Comp. ¶¶ 8–13). All of the defendants are presently unknown “Doe” defendants.

In August, September, and October 2014, at least four videos making “unauthorized use” of Dr. Kumar’s allegedly copyrighted materials were posted on YouTube.com, Vimeo.com, and DiggVideo.com (Compl. ¶¶ 15, 28, 40, 46). The videos allegedly (Comp. ¶¶ 16, 29, 41):

attack[ed] Dr. Kumar’s personal and professional life, and
publishe[d] false statements of material fact that accuse[d] her of,
among other things, committing multiple crimes, both in India and
in the United States; defrauding, cheating and scamming her clients;
and being unchaste and causing the divorce of third parties.

No videos were appended to the motion or complaint.

Counsel for Dr. Kumar then sent Digital Millennium Copyright Act (“DMCA”) take-down notices to the online service providers. Counter-notifications were received from an individual allegedly identified as “Indra Nooyi” in New Jersey (Baughman Decl. ¶¶ 4–6; Baughman Exh. C).

Indra Nooyi was the name of the CEO of PepsiCo Inc. and the address in New Jersey was a “section of highway near a New Jersey PepsiCo facility.” Counsel for Dr. Kumar do not believe the CEO of PepsiCo filed the counter-notifications based on conversations with counsel for PepsiCo (Baughman Decl. ¶¶ 7–8). At least two of the videos allegedly “remain published and available to any viewer on the Internet” (Compl. ¶¶ 22–25, 27, 37, 39, 45, 69).

In October 2014, Dr. Kumar commenced this action against unknown “Doe” defendants alleging defamation and copyright infringement. She also filed an *ex parte* application for leave to take specific third-party discovery to determine the “Doe” identities, which was granted.

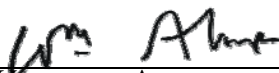
Dr. Kumar also filed an *ex parte* motion for a temporary restraining order. Oral argument was held on October 30.

At this point, it would be pointless to issue the proposed injunctive relief because plaintiff has not yet identified a named defendant. There is no one against whom the proposed injunction would run. It is Dr. Kumar’s burden to specifically identify the defendant and serve him or her with the summons and complaint. This has not been done.

Accordingly, plaintiff’s *ex parte* motion for a temporary restraining order is hereby **DENIED**. This is without prejudice to plaintiff filing a fresh motion for a temporary restraining order if and when plaintiff succeeds in properly bringing in a real named defendant. The January 2015 initial case management conference is hereby continued to **MAY 21, 2015 AT 11:00 A.M.** A joint case management statement is due by **MAY 14 AT NOON**. Plaintiff has until **APRIL 30, 2015**, to bring in all parties and to file a pleading identifying the real defendant(s).

IT IS SO ORDERED.

Dated: October 30, 2014.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE